

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1360 be amended to read as follows:

- 1 Page 5, line 17, after "means" insert "**facilities for**".
- 2 Page 5, line 21, delete "distribution." and insert "**distribution lines**
- 3 **and substations.**".
- 4 Page 7, line 20, delete "against an owner of" and insert "**for**".
- 5 Page 7, line 32, after "IC 32-24-1." insert "**An appeal of the**
- 6 **issuance of a certificate of authority under this chapter does not**
- 7 **stay an action in eminent domain, or the use of the certificate of**
- 8 **authority filed in an action in eminent domain, authorized under**
- 9 **this section.**".
- 10 Page 8, line 4, delete "by the owner".
- 11 Page 13, line 26, after "as" insert "**a general district corporation**
- 12 **(as defined in IC 8-1-13-23(a)) or**".
- 13 Page 24, between lines 10 and 11, begin a new paragraph and insert:
- 14 "SECTION 16. IC 32-24-1-3, AS AMENDED BY P.L.110-2007,
- 15 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 16 UPON PASSAGE]: Sec. 3. (a) Any person that may exercise the power
- 17 of eminent domain for any public use under any statute may exercise
- 18 the power only in the manner provided in this article, except as
- 19 otherwise provided by law.
- 20 (b) Except as provided in subsection (g), before proceeding to
- 21 condemn, the person:
- 22 (1) may enter upon any land to examine and survey the property
- 23 sought to be acquired; and
- 24 (2) must make an effort to purchase for the use intended the land,
- 25 right-of-way, easement, or other interest, in the property.
- 26 (c) The effort to purchase under subsection (b)(2) must include the
- 27 following:
- 28 (1) Establishing a proposed purchase price for the property.
- 29 (2) Providing the owner of the property with an appraisal or other
- 30 evidence used to establish the proposed purchase price.
- 31 (3) Conducting good faith negotiations with the owner of the

1 property.

2 (d) If the land or interest in the land, or property or right is owned
 3 by a person who is an incapacitated person (as defined in
 4 IC 29-3-1-7.5) or less than eighteen (18) years of age, the person
 5 seeking to acquire the property may purchase the property from the
 6 guardian of the incapacitated person or person less than eighteen (18)
 7 years of age. If the purchase is approved by the court appointing the
 8 guardian and the approval is written upon the face of the deed, the
 9 conveyance of the property purchased and the deed made and approved
 10 by the court are valid and binding upon the incapacitated person or
 11 persons less than eighteen (18) years of age.

12 (e) The deed given, when executed instead of condemnation,
 13 conveys only the interest stated in the deed.

14 (f) If property is taken by proceedings under this article, the entire
 15 fee simple title may be taken and acquired.

16 (g) This subsection applies to a ~~public utility (as defined in~~
 17 ~~IC 32-24-1-5.9(a)) or a pipeline company (as defined in IC 8-1-22.6-7).~~
 18 If a ~~public utility or a pipeline company~~ seeks to acquire land or an
 19 interest in land under this article, the ~~public utility or pipeline company~~
 20 may not enter upon the land to examine or survey the property sought
 21 to be acquired unless either of the following occur:

22 (1) The ~~public utility or the~~ pipeline company sends notice by
 23 certified mail to the affected landowner (as defined in
 24 IC 8-1-22.6-2) of the ~~public utility's or the~~ pipeline company's
 25 intention to enter upon the landowner's property for survey
 26 purposes. The notice required by this subdivision must be mailed
 27 not later than fourteen (14) days before the date of the ~~public~~
 28 ~~utility's or the~~ pipeline company's proposed examination or
 29 survey.

30 (2) The ~~public utility or the~~ pipeline company receives the
 31 landowner's signed consent to enter the property to perform the
 32 proposed examination or survey.

33 An affected landowner may bring an action to enforce this subsection
 34 in the circuit court of the county in which the landowner's property is
 35 located. A prevailing landowner is entitled to the landowner's actual

1 damages as a result of the ~~public utility's or the~~ pipeline company's
2 violation. In addition, the court may award a prevailing landowner
3 reasonable costs of the action and attorney's fees.".

4 Renumber all SECTIONS consecutively.

(Reference is to EHB 1360 as printed April 10, 2009.)

Senator GARD